

AMENDED IN SENATE MARCH 20, 2006

SENATE BILL

No. 1319

Introduced by Senator Cedillo

February 16, 2006

An act to add Section 851.91 to the Penal Code, relating to criminal procedure.

LEGISLATIVE COUNSEL'S DIGEST

SB 1319, as amended, Cedillo. Criminal procedure: release from custody in jail.

Existing law generally regulates the conditions of arrest and release from custody.

This bill would state findings and declarations of the Legislature relative to "homeless dumping," as defined.

~~This bill would require any person who has been released from the custody of a police department or arresting agency to be released within the boundaries of the jurisdiction of the arresting agency. The bill would prohibit persons who have been arrested and who are in need of drug treatment, mental health services, or homeless services from being transported upon or after release out of their cities into neighboring cities, localities, or jurisdictions unless they are transported directly to be enrolled for treatment, available space at the service provider has been confirmed, and they are transported to the receiving area of the service provider by the arresting agency prohibit public agencies, as defined, from releasing a person from their custody into a location for the purpose of removing the person from a specific neighborhood, city, county or jurisdiction. This bill would authorize a civil action against the agency for preventive relief, as specified. This bill would also authorize a civil penalty against the~~

agency in the amount of \$10,000 per violation and attorney's fees to be awarded to the prevailing plaintiff.

By imposing additional duties on local ~~law enforcement~~ agencies, this bill would impose a state-mandated local program.

The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.

This bill would provide that, if the Commission on State Mandates determines that the bill contains costs mandated by the state, reimbursement for those costs shall be made pursuant to these statutory provisions.

Vote: majority. Appropriation: no. Fiscal committee: yes.
State-mandated local program: yes.

The people of the State of California do enact as follows:

1 SECTION 1. The Legislature finds and declares the
2 following:

3 (a) Many cities and local arresting agencies transport persons
4 in need of drug treatment, mental health, or homeless support
5 services to other jurisdictions because of the presence of service
6 providers, regardless of available treatment beds.

7 (b) The act of transporting those persons in need to the streets
8 where service providers are present without confirming the
9 availability of services is known as "homeless dumping."

10 ~~SEC. 2. Section 851.91 is added to the Penal Code, to read:~~

11 ~~851.91. (a) Any person who has been released from the~~
12 ~~custody of a police department or arresting agency shall be~~
13 ~~released within the boundaries of the jurisdiction of the arresting~~
14 ~~agency.~~

15 ~~(b) Those persons who have been arrested and who are in need~~
16 ~~of drug treatment, mental health services, or homeless support~~
17 ~~services shall not, upon or after release, be transported out of~~
18 ~~their cities into neighboring cities, localities, or jurisdictions~~
19 ~~unless they are transported directly to be enrolled for treatment,~~
20 ~~available space at the service provider has been confirmed, and~~
21 ~~they are transported to the receiving area of the service provider~~
22 ~~by the arresting agency.~~

23 ~~SEC. 2. Section 851.91 is added to the Penal Code, to read:~~

1 851.91. *No public agency, including, but not limited to, a law*
2 *enforcement agency, public hospital, or any person employed by*
3 *the agency, who has custody of a person shall release the person*
4 *from custody into a location for the purpose of removing that*
5 *person from a specific neighborhood, city, county or jurisdiction,*
6 *either temporarily or permanently, unless otherwise required by*
7 *law. Whenever there is reasonable cause to believe a public*
8 *agency, or employee of the agency, is engaged in a pattern or*
9 *practice of releasing persons from the agency's custody for the*
10 *purpose of removing the person from a specific neighborhood,*
11 *city, county, or jurisdiction, either temporarily or permanently,*
12 *the Attorney General, any district attorney, or city attorney, or*
13 *any person aggrieved by this practice is authorized to bring a*
14 *civil action in the appropriate court requesting preventive relief,*
15 *including an application for a permanent or temporary*
16 *injunction, restraining order, or other order against the public*
17 *agency or public employee engaged in the pattern or practice. A*
18 *public agency or employee who violates this section may also be*
19 *subject to a civil penalty of up to ten thousand dollars (\$10,000)*
20 *per violation. The civil penalties collected pursuant to this*
21 *section shall be paid to the agency or individual bringing the*
22 *action. A prevailing plaintiff may also be awarded attorney's fees*
23 *and costs.*

24 SEC. 3. If the Commission on State Mandates determines that
25 this act contains costs mandated by the state, reimbursement to
26 local agencies and school districts for those costs shall be made
27 pursuant to Part 7 (commencing with Section 17500) of Division
28 4 of Title 2 of the Government Code.